

FIFTH LOUISIANA LEVEE DISTRICT



COMPLIANCE AUDIT
ISSUED JANUARY 9, 2008

**LEGISLATIVE AUDITOR
1600 NORTH THIRD STREET
POST OFFICE BOX 94397
BATON ROUGE, LOUISIANA 70804-9397**

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STEVE J. THERIOT, CPA
LEGISLATIVE AUDITOR

OFFICE OF
LEGISLATIVE AUDITOR
STATE OF LOUISIANA
BATON ROUGE, LOUISIANA 70804-9397

1600 NORTH THIRD STREET
POST OFFICE BOX 94397
TELEPHONE: (225) 339-3800
FACSIMILE: (225) 339-3870

January 9, 2008

**REYNOLD MINSKY, PRESIDENT,
AND BOARD OF COMMISSIONERS
FIFTH LOUISIANA LEVEE DISTRICT**
Tallulah, Louisiana

We have audited certain transactions of the Fifth Louisiana Levee District (District). Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the propriety of certain allegations.

Our audit consisted primarily of inquiries and the examination of selected financial records and other documentation. The scope of our audit was significantly less than that required by *Government Auditing Standards*; therefore, we are not offering an opinion on the District financial statements or system of internal control nor assurance as to compliance with laws and regulations.

The accompanying report presents our findings and recommendations as well as management's response. This correspondence is intended primarily for the information and use of management of the District. Copies of this report have been delivered to the District Attorney for the Sixth Judicial District of Louisiana and others as required by law.

Respectfully submitted,

Steve J. Theriot, CPA
Legislative Auditor

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During our audit of the Fifth Louisiana Levee District (District), we identified a potential conflict of interest involving the south foreman. In addition, we identified District funds that appear to have been spent for personal purposes, including hay baling tractor parts and repair of an air compressor. The value of these personal purchases is approximately \$444.

Potential Conflict of Interest

On November 16, 1998, the Louisiana Board of Ethics issued Ethics Advisory Opinion 1998-734, which prohibited Bobby Cowan, a foreman for the District, from having a contract to bale hay on private land located within the District. According to the Ethics Board, since the landowner is regulated by the District, this action violated Section 1111C(2)(d) of the Louisiana Code of Governmental Ethics, which prohibits a public servant from performing compensated services for a person who is regulated by his agency or who has a contractual, business, or financial relationship with the public servant's agency.

Our office received information that Mr. Cowan baled hay on private property within the District boundaries subsequent to Ethics Advisory Opinion 1998-734. Mr. Cowan stated to us that he has baled hay on private property in the District within the past year. However, Mr. Cowan stressed that he did not work directly for the landowner but rather worked for a third party that separately had an agreement with the landowner to bale hay. The third party confirmed that he did have an agreement with the landowner and that Mr. Cowan worked for him (the third party) to bale hay. Mr. Cowan added that he was compensated for his work with approximately 100 round bales of hay. A conservative estimate for the value of the 100 bales of hay is \$3,000.

The actions of Mr. Cowan may still constitute a violation of Section 1111C(2)(d) of the Louisiana Code of Governmental Ethics, which prohibits a public servant from performing compensated services for a person who is regulated by his agency or who has a contractual, business, or financial relationship with the public servant's agency.

District Funds Used for Personal Purposes

Hay Baling Equipment

The District received and paid an invoice dated May 8, 2007, which included three tractor parts that are specifically for hay baling. The cost of these three parts was \$185. The District is not engaged in the process of baling hay.

Mr. Cowan, the District's south foreman, stated that he placed the order for those parts and that the parts were used on his personal hay baling equipment. He further stated that he was not aware the District paid for the parts. According to Mr. Cowan, the vendor must have made an error and billed the parts to the District instead of him personally.

Repair of Air Compressor

The District received and paid an invoice dated August 25, 2006, which included \$259 for replacing an engine on an air compressor. Mr. Cowan stated that the air compressor was his and

did not belong to the District. According to Mr. Cowan, his air compressor was damaged while being used by the District's south maintenance crew for official District business. He was aware that the District paid for the repair of his air compressor and felt that this was appropriate. Mr. Cowan added that although several air compressors were assigned to the District's south maintenance crew, they were not adequate for the work. Consequently, he lets the District's south maintenance crew use two of his personal air compressors.

We recommend that the District:

- (1) seek another opinion from the Louisiana Board of Ethics as to the propriety of Mr. Cowan's hay baling activities;
- (2) identify potential conflicts of interest and seek legal advice as to the appropriateness of a transaction before the transaction occurs;
- (3) seek reimbursement from Mr. Cowan for the cost of the hay baling equipment purchased with District funds;
- (4) implement procedures that include documenting the business purpose of all purchases to ensure that District funds are not used for personal purposes; and
- (5) discontinue the practice of using borrowed equipment from employees and ensure that employees have the necessary equipment to perform their job duties.

The District was created by Louisiana Revised Statute (R.S.) 38:291(E) to protect the lands within the parishes of East Carroll, Madison, Tensas, and Concordia from flooding. The District provides such protection through the creation and maintenance of levees. The District maintains 254.8 miles of mainline levee and 93.1 miles of backwater ring levee in Concordia Parish known as the Red River Backwater Levee. The District employees consist of two administrative assistants, a north maintenance crew, and a south maintenance crew. According to R.S. 38:325(C)1, the District may engage in revenue generating functions that can be dedicated to public use and self-sufficiency of the enterprise as an entity. However, the District is not engaged in hay baling to generate additional revenues for the District.

The procedures performed during this examination consisted of:

- (1) interviewing employees, former employees, and officials of the District;
- (2) interviewing other persons as appropriate;
- (3) examining selected documents and records of the District;
- (4) performing observations; and
- (5) reviewing applicable state laws and regulations.

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Management's Response

REYNOLD MINSKY, PRESIDENT

BARRY MAXWELL, VICE-PRESIDENT

NANCY WHITTEN, ADMIN. ASST.

**FIFTH LOUISIANA LEVEE DISTRICT
BOARD OF COMMISSIONERS**

PH(318) 574-2206

102 BURNSIDE DRIVE
TALLULAH, LA 71282

FAX(318) 574-2205

E-Mail<fifthld@bellsouth.net>

December 18, 2007

Steve J. Theroit, CPA
Louisiana Legislative Auditor
P O Box 94397
Baton Rouge, LA 70804-9397

Re: Compliance Audit Findings

Dear Mr. Theroit:

Your revised confidential draft report, dated 12/18/07, addressed issues related to Levee District Foreman Bobby Cowan, noting in particular a possible conflict of interest regarding his hay harvest business and the use of Levee District funds for personal purposes.

The audit report made five recommendations to the Levee Board. In response, I submit the following:

1. The Levee Board will seek another opinion from the Louisiana Board of Ethics as to the propriety of Mr. Cowan's hay bailing activities related to Levee District rights-of-way.
2. It has always been the policy of the Board of Commissioners for the Fifth Louisiana Levee District to adhere to the Louisiana Code of Governmental Ethics and we have addressed all situations where we considered a conflict might exist. We've discussed this matter with James Paxton, the Levee District's legal counselor, and his advice requested on any other situations that might be questionable.
3. With regards to Levee Foreman Bobby Cowan's purchase of hay bailing equipment parts that were charged to the Levee District on May 8, 2007, and payment made by the Levee District on June 5, 2007. It has been determined that following your agent's interview with Mr. Cowan when this issue was discussed, Mr. Cowan went to the vendor where the equipment parts had been purchased, advised the vendor that the parts had been charged to the Levee District in error, and was to be billed to him personally. The vendor issued a credit memo for \$184.53, dated September 5, 2007. (Enclosure #1)
4. The Levee Board strives to ensure that District funds are not used for personal purposes. We review all claims monthly at our Board meeting and I personally sign-off on all purchases that exceed \$1,000.00. Additionally, we now require that every purchase by Levee District personnel identify the particular vehicle or unit the purchase is for. As you know, in a work situation like the Levee District operates, it is impossible to prevent misuse of funds if an employee is determined otherwise. We are limited to investigating irregularities or complaints to the best of our ability and correcting situations where there is proof of wrongdoing. Most of the time, we are unable to confirm allegations.

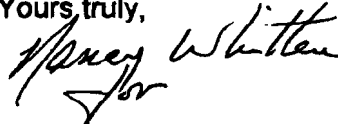
5. The Levee District has always provided equipment necessary for an employee to perform their job duties. Levee Foremen routinely approve normal purchases without oversight except for Levee Superintendent James Shivers. Mr. Shivers approves most purchases "after the fact", and only equipment or other major purchases are approved by the Board President or Levee Board in advance. On no occasion has a necessary purchase ever been denied.

Levee Board members were unaware that Mr. Cowan's personal equipment was being used by the maintenance department. After this matter came to our attention, on March 27, 2007 I issued a memo that instructed employees to remove all personal tools and equipment from Levee District shops and vehicles "immediately." (Enclosure #2) A copy of that memo was attached to each employee's payroll check being issued at the time.

In addition, the Levee District Employee Handbook adopted by the Levee Board in June 2007, with a copy furnished to each employee, states, "No personal tools or equipment are to be used by the Levee District or brought to Levee District job sites."

I trust this adequately addresses the issues set forth in your report. If not, please advise so that I can answer any questions you have, and the Levee Board might better determine if other procedures or situations need to be addressed or changed.

Yours truly,



Reynold S. Minsky
President
Fifth Louisiana Levee Board

RM/nw



JOHN DEERE

FERRIDAY FARM
P.O. BOX 1377 - 503 LAKE DRIVE
FERRIDAY, LA 71334
(318) 757-4578 FAX: (318) 757-2607
(800) 258-4578
e-mail: ferriday@ferridayfarm.com



JOHN DEERE

905 MOUND STREET
JONESVILLE, LA 71343
(318) 339-9666 FAX: (318) 339-9876
(800) 262-7965
e-mail: jonesville@ferridayfarm.com

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FIFTH LA LEVEL BOARD
102 MURKINSIDE DRIVE.

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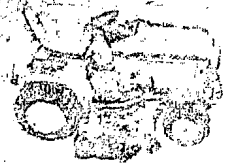
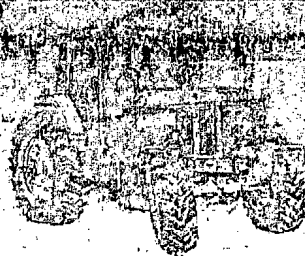
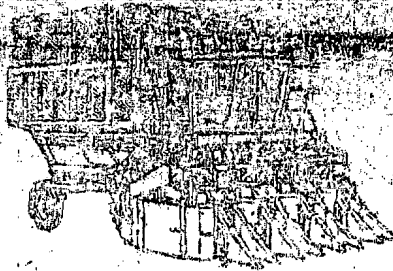
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~~IT CHECK WITH US FOR ALL YOUR OTHER NEEDS~~

SECRET - MEMPHIS - MAY 1968



SHIP VIA

ALL CLAIMS AND RETURNED GOODS MUST BE ACCOMPANIED BY THIS BILL

TERMS: ALL ACCOUNTS NOT PAID BY THE 20TH OF THE MONTH ARE PLACED ON C.O.D., AND WILL BE CHARGED 1.5% (18% ANNUAL, \$.60 MINIMUM) AT NEXT BILLING CYCLE. REPAIR PARTS MAY NOT BE RETURNED AFTER 10 DAYS FROM DATE OF INVOICE, AND ARE SUBJECT TO A HANDLING CHARGE OF 15%. NOTE: SPECIAL ORDERED PARTS ARE NOT RETURNABLE.

DESCRIPTION	ACCOUNT	AMOUNT
PARTS TAXABLE		
PARTS NONTAXABLE		104.00
MISC TAXABLE		
MISC NONTAXABLE		
SALES TAX		
PLEASE PAY THIS AMOUNT ▶		104.00

RECEIVED BY _____

Cr. 184.53-*

Enclosure #1

BARRY MAXWELL, VICE-PRESIDENT

REYNOLD MINSKY, PRESIDENT

JASON TRICHELL, ASST COORD.

Fifth Louisiana Levee District
BOARD OF COMMISSIONERS
102 BURNSIDE DRIVE
TALLULAH, LA 71282

PH (318)574-2206

FAX (318)574-2205

E-MAIL fifthld2@bellsouth.net

Date: March 27, 2007
To: All Employees
From: Reynold Minsky, President
Fifth Louisiana Levee Board
RE: Inventory Issues

FILE COPY*Attached to
psychos*

In an effort to control inventory, I ask that all personal tools and equipment be removed from the Levee District shops and vehicles immediately. I understand that the tools and equipment have been used to assist employees, but this makes it extremely hard to account for the items that do belong to the Levee District, and is even further complicated when your personal items need to be repaired at the expense of the Levee District.

The Fifth Louisiana Levee District provides all tools and equipment necessary to complete all work needed. There should be no reason for employees to provide their own tools or equipment. If there are tools that need to be purchased, please contact the office and obtain a purchase order before the purchase, and we will make arrangements to provide them as quickly as possible.

I apologize for the inconvenience this may cause until things are straightened out.

Enclosure #2